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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Carrier Use and Dissemination )  
of Customer Proprietary Network )  
Information )CC Docket No. 90-623  
CC Docket No. 92-256

TO: The Commission

**COMMENTS OF  
SOUTHWESTERN BELL TELEPHONE COMPANY**

Southwestern Bell Telephone Company (SWBT), by its attorneys, respectfully files these Comments in response to the Commission's March 10 Public Notice, FCC 94-63, regarding the captioned subject. The Public Notice calls for comment on whether the Commission's current rules governing carrier use and dissemination of Customer Proprietary Network Information (CPNI) should be re-evaluated in light of recent announcements regarding potential carrier "alliances, acquisitions, and mergers with non-telephone company partners." Public Notice, pp. 2-3.

First, SWBT respectfully submits that such an inquiry is entirely premature at this time and should not be pursued. Presumably, the alliances, acquisitions and mergers referred to in the Public Notice were intended to include primarily the previously announced merger of Bell Atlantic with TCI, the proposed Acquisition of McCaw Cellular by AT&T, and the previously announced partnership between Southwestern Bell Corporation and Cox Enterprises. However, both the Bell Atlantic and the Southwestern Bell actions have now been abandoned, and U.S. District Judge Harold Greene has delayed for an indeterminate time the proposed

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AT&T/McCaw deal. There are no other major such alliances being planned, to SWBT's knowledge, at this time.<sup>1</sup>

Furthermore, even if there were such major alliances being planned, the above recent events underscore the point that plans often end with inaction. Therefore, most, if not all, of the grounds for the Commission's proposal to re-evaluate its CPNI rules at this time, depending upon how one looks at it, either have now evaporated or never really existed in the first place.

Clearly, the Commission can reconsider its rules at any time that changed conditions so warrant. But in this case, there are in fact no changed conditions that would support reconsideration at this time -- or at least, none that have been articulated by the Commission to date.

Second, SWBT respectfully suggests that, regardless of changes in the structure of the industry (i.e., actual mergers or partnerships among industry participants), customers have legitimate expectations about how businesses with whom they deal will use the information which has been provided by the customer in the course of business transactions. For any business to violate these customer expectations is to engage in the riskiest of commercial behaviors. Therefore, neither this Commission nor any other governmental or regulatory body need regulate the use of customer information as it relates to the privacy expectations of consumers.

Third, SWBT would like to point out that the Public Notice is, in any event, deficient, in that it is limited to an

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<sup>1</sup> Of course, the U S West/Time-Warner venture is apparently beyond the planning stages.

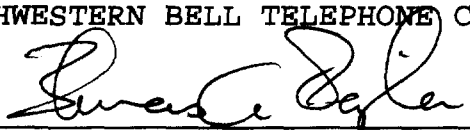
inquiry about CPNI treatment only as related to the Bell Operating Companies (BOCs). Since the stated concern is one of customer privacy expectations, any Commission inquiry into this area would have to encompass such customer expectations with respect to all carriers regulated by the Commission, and not just one subset, to comply with Administrative Procedure Act (APA) requirements for reasoned decision-making, and to address the matter fully.

SWBT respectfully submits that the proposed inquiry into current Commission CPNI rules is entirely premature and unnecessary. Should the Commission go forward with the inquiry anyway, it must expand its scope to include the treatment of CPNI by all carriers, and not just the BOCs, to comply with APA requirements and to address the matter completely.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

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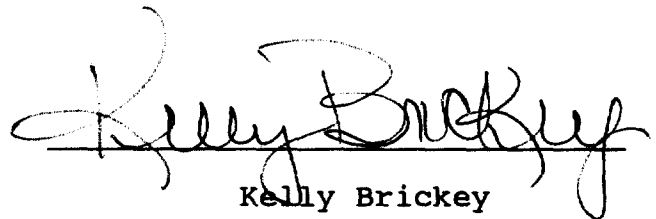
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April 11, 1994

**CERTIFICATE OF SERVICE**

I, Kelly Brickey, hereby certify that the foregoing "Comments of Southwestern Bell Telephone Company" has been served this 11th day of April, 1994 to the Parties of Record.

  
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